

Entered -12-6-99 - sb
CL 99L0832 - GWENDOLYN BURNS

01- R-1256

CLAIM OF:

SHIRLEY MIDDLEBROOKS
through her attorney.
ONYIRIMBA & ASSOCIATES, P.C.
41 Marietta Street
Suite 714
Atlanta, Georgia 30303

For bodily injuries alleged to have been sustained as a result of a slip and fell incident due to water being on the restroom floor on August 5, 1999 at 1565 Mosley Drive, SW - Mosley Park.

THIS ADVERSED REPORT IS
APPROVED

BY: Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSED BY
CITY COUNCIL SEP 04 2001

ADVERSE REPORT

PUBLIC SAFETY &

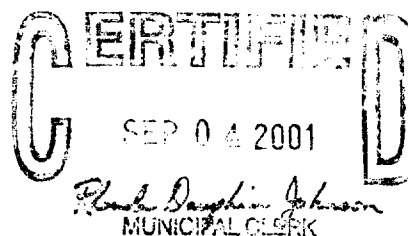
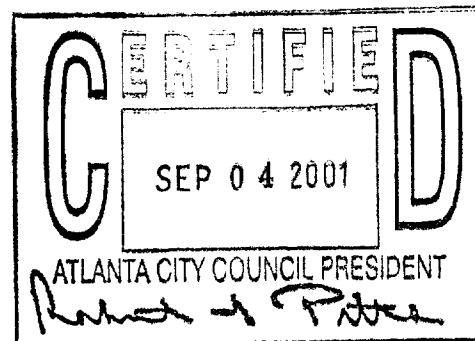
LEGAL ADMINISTRATION COMMITTEE

DATE SEP 04 2001

CHAIR: C. T. Martin

W. J. [Signature]

Clara [Signature]





**CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103**

September 12, 2001

Onyirimba & Associates, P.C.
Attorney at Law
41 Marietta Street
Suite 714
Atlanta, GA 30303

01-R-1256

RE: Shirley Middlebrooks

Dear Attorney Warner:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on September 04, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0832

Date: August 1, 2001

Claimant /Victim SHERLINE MIDDLEBROOKS
BY: (Atty) (Ins. Co.) ONYIRIMBA ASSOCIATES, P.C.
Address: 41 Marietta Street, Suite 714, Atlanta, Georgia 30342
Subrogation: Claim for Property damage \$ Bodily Injury \$ 60,000.00
Date of Notice: 11/24/99 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 8/5/99 Place: 1565 Mosley Drive, SW - Mosley Park
Department PARKS, RECREATION & CULTURAL AFFAIRS Division PARKS
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant contends that she sustained bodily injuries when she slipped and fell on water that was negligently left on the floor of the ladies bathroom at Mosley Park. An investigation determined that the claimant was told by a city employee that the restroom was off limits because it was currently being occupied by "day campers" that were involved in an end-of-the-summer "closing program", yet she failed to comply with the employee's request. Moreover, the operation of the Department of Parks, Recreation and Cultural Affairs is a governmental function and is protected by sovereign immunity as set forth in O.C.G.A. §36-33-1. Lastly, O.C.G.A. §51-3-22 provides that absent any willful or malicious failure to guard or warn, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for recreational purposes.

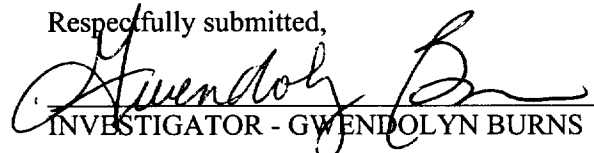
INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X
Pictures Diagrams Reports: Police Dept Report Other X
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

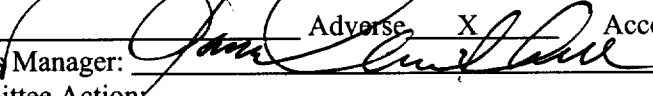
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent X City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager:  Concur/date 080201
Committee Action: Council Action

**ONYIRIMBA
ASSOCIATES, P.C.**
ATTORNEYS AT LAW

41 Marietta Street • Suite 714
Atlanta, GA 30303
404-577-9893 • Fax 404-577-7988

Reeves
12/02/99
R

November 17, 1999

ENTERED - 12-6-99 - SB
99L0832 - MIKE REEVES

Attn: Law Department
City of Atlanta Municipal Clerk
55 Trinity Avenue, S.W.
Atlanta, GA 30335

RE: Your Insured:
Your Claim No:
DOA:
Our Client:

City of Atlanta
PLEASE PROVIDE
8-5-99
Sherline Middlebrooks

Dear Sir/Madam:

We have been retained by Mrs. Sherline Middlebrooks to represent her legal rights and interest regarding a personal injury claim arising out of a slip and fall accident while visiting Mosley Park of Atlanta located at 1565 Martin Luther King, Jr. Drive, Atlanta, GA 30314.

On or about the 5th day of August, 1999, our client, Mrs. Sherline Middlebrooks was at Mosley Park when she slipped and fell on water that was negligently left on the floor of the ladies restroom. Mrs. Middlebrooks suffered a broken thigh bone in her left leg and severe injuries to her back as a result of this negligence.

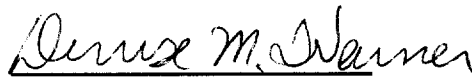
Mrs. Sherline Middlebrooks sustained severe pain and suffering as a result of this incident. She received immediate treatment from Grady Hospital. Her treating physicians, Dr. Jordan and Dr. Bear performed emergency surgery. Mrs. Middlebrooks is currently receiving treatment from Grady Memorial Hospital.

Please forward the name address and phone number of your insurance carrier and the name of the person who will be handling this case to this office immediately.

If you have any further questions regarding this matter, please contact this office. Thank you for prompt attention and consideration.

Sincerely,

ONYIRIMBA & ASSOCIATES, P.C.

A handwritten signature in cursive script that reads "Denise M. Warner". The signature is written in dark ink and is positioned above the printed name and title.

Denise M. Warner
Attorney at Law

cc: File

DMW\sh

01-R-1256

RCS# 3092
9/04/01
3:36 PM

Atlanta City Council

Regular Session

MULTIPLE
1256

Public Safety Consent Agenda except #15

ADOPT

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

MULTIPLE